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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,541	01/28/2004	David Robison	CRS / 275	3109
26875	7590	05/06/2005	EXAMINER	
WOOD, HERRON & EVANS, LLP 2700 CAREW TOWER 441 VINE STREET CINCINNATI, OH 45202			GRAY, LINDA L	
			ART UNIT	PAPER NUMBER
			1734	

DATE MAILED: 05/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/766,541

Applicant(s)

ROBISON ET AL.

Examiner

Linda L. Gray

Art Unit

1734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2 and 8 is/are rejected.
- 7) ☒ Claim(s) 2-7 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**Detailed Action**

**Claim Objections**

**1. Claims 2-4 (and thus dependent claims 5-7) are objected to because of the following informalities:** each recitation of "said sheeting" should be changed to -- said membrane --.

**Claim Rejections - 35 USC 102**

**2.** The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

**3. Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Liebmann (US 6,212,683 B1).**

**Claim 1**, Liebmann teaches a method of applying seam tape 14 (Fig 3A) along an edge of sheet of membrane 20 wherein tape 14 includes pressure sensitive adhesive strip 15 covered on a first surface with release sheet 12 (Fig 5; c 6, L 1-14). The method includes applying tape 14 to a center portion of membrane 20 by pressing a second surface of tape 14 against membrane 20 at item 53 and cutting membrane 20 into two sheets at item 60 by cutting through membrane 20 and tape 14 to form the two sheets having tape 14 along one edge (Fig 3B) (see c 3-5 for related discussion). The limitation of "adapted for use as one of a roofing membrane and a pond liner" is related to an intended use of the sheet(s) made using the presently claimed method and does not provide a patentable distinction between Liebmann and claim 1.

**Claim 2**, tape 14 and membrane 20 are cut simultaneously (Fig 3A).

**Claim Rejections - 35 USC § 103**

**4.** The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**5. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Liebmman in view of Ferrucci et al. (US 3,917,501).**

*Claim 8, Liebmman teaches membrane 20 to be liquid impermeable but does not indicate using EPDM where the product made is a bib.*

However, Ferrucci et al. teach EPDM to be a well-known material for a bib, and it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided in Liebmman that membrane 20 be EPDM because it is obvious to replace one material with another art recognized alternative material where such a substitution would provide a liquid impermeable bib as required by Liebmman.

**Allowable Subject Matter**

**6. Claim 3 would be allowable if rewritten to overcome the objection(s) set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.**

**Claims 4-7 would be allowable if rewritten or amended to overcome the objection to claim 4 set forth in this Office action.**

**7.** The following is a statement of reasons for the indication of allowable subject matter:

**claim 3:** Liebmman does not teach that the seam tape applicator sheet slitter shown in Figure 3A is run along membrane 20 in that items 52, 53, and 60 are stationary relative to moving membrane 20, although supporting a sheet on a surface having a groove for which to guide a moving tape applicator slitter is conventional, and

**Art Unit: 1734**

**claim 4:** Liebmann teaches an apparatus for applying seam tape 14 along an edge of membrane 20 including a seam tape applicator having contact roll 53 adapted to press tape 14 against a surface of membrane 20; the applicator supports roll 52 of tape 14; tape 14 includes pressure sensitive adhesive layer 15 having first and second adhesive surface and release sheet 12 covering one of the surface; there is also slitter 60, having blades at 63-65, adapted to slit through tape 14 and membrane 20; however, Liebmann does not teach membrane 20 to be a roofing membrane where claim 4 is written in such a manner as to require the membrane be a roofing membrane per se and does not use the language merely as an intended use of the claimed apparatus; also, claim 4 is written in such a manner as to requiring the roofing membrane to be more than merely a material operated upon by the claimed apparatus.

### **Applicant's Comments**

**8.** The comments filed 1-31-05 have been fully considered. The prior rejections are withdrawn in view of Applicant's amendment.

### **Art of Record**

**9.** The following prior art is made of record: Klepfer teaches a method of applying seam tape 12 across sheet of membrane 11 wherein tape 12 includes pressure sensitive adhesive strip 7 covered on a first surface with release sheet 8. The method includes applying tape 12 to across membrane 11 at spaced apart locations by pressing a second surface of tape 12 against membrane 11 and cutting membrane 11 into two sheets 1 by cutting through membrane 11 and tape 12 to form sheets 1 having tape 12 along one edge (Fig 6) (see c 2-4 for related discussion).

### **Conclusion**

**10.** Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

**Art Unit: 1734**

**11.** Any inquiry concerning this communication or earlier communications from the examiner should be directed to Linda Gray whose telephone number is (571) 272-1228. The examiner can normally be reached Monday-Friday from 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Fiorilla, can be reached at (571) 272-1187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

llg

April 29, 2005

*Linda L. Gray*  
LINDA GRAY  
PRIMARY EXAMINER